

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:09-CR-157-4-F

UNITED STATES OF AMERICA

v.

CHARLES DOMINIQUE SMITH,
Defendant.

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O R D E R

This matter is before the court on the defendant's Motion for Reduction of Sentence, pursuant to 18 U.S.C. § 3582(c)(2). *See* [DE-186]. At the court's direction, the Government has filed a thorough response thereto [DE-189]. The court agrees that the Government's Response is a correct assessment and application of the law in this case. In short, Smith is not entitled to a further reduction of his sentence, because the relevant amendment to the advisory Sentencing Guidelines does not have the "effect of lowering the defendant's applicable guideline range." U.S.S.G. § 1B1.10 (a)(2)(B).

Smith, whose guilty plea subjected him to a mandatory 60-month sentence, *see* 21 U.S.C. § 841(b)(1)(B), has received the benefit of motions for reduction that resulted in his current 30-month sentence. He simply is ineligible for a further reduction pursuant to § 3582(c)(2) because an amendment did not have the effect of lowering his guideline range.

Accordingly, Smith's Motion for Reduction of Sentence [DE-186] is DENIED.

SO ORDERED.

This, the 26th day of January, 2012.



JAMES C. FOX
Senior United States District Judge